

## **REMARKS**

By this amendment, claims 1 and 8 have been amended. Claim 6 is cancelled. Claim 13 was cancelled previously. Claims 1-5 and 7-12 remain in the application.

Claim 1 has been amended by specifying that the channel selection involves selecting only channel(s) that are available to broadcast at a designated starting time or times or range of starting times (see page 9, lines 30-32) and that remain available to broadcast for the duration of the selected video content. Selection implies a choice between items (namely channels) that are selected, consequently leaving aside those channels that are not selected. This channel selection thus implies that “available” channels are selected/chosen and non-available channels are not selected and left aside. The available channels are those that are free for transmission during the appropriate time frame.

Moreover, the mentioned “indication” is now specified as being of “said” selected channels available to broadcast, i.e. meaning an indication of those channels that are free during the appropriate time frame, there being of course no indication of non-available channels since they are non-selected.

The closing part of claim 1 has been amended to indicate that:

- The distribution server is arranged to provide automated selection of one or more channels that are available to broadcast immediately or with a delay in correspondence with a user command that sets a time or times or a range of times for broadcast (i.e. in line with the preceding amendment to claim 1),
- The distribution server is arranged to provides automated selection of channels available to broadcast that are further selectable by the user (see for example original claim 6),  
or
- A channel or channels for broadcast is pre-selectable by the user and the distribution server is arranged to provide automated selection amongst the pre-selected channels of those channels that are available for broadcast (see page 9, lines 25-27).

In other words, this part of the claim is aligned with the referenced parts of the description.

Claim 6 is cancelled.

Claim 8 is amended in correspondence with claim 1.

## **Comments on Response to Arguments**

Paragraph 2 of the Detailed Action, contains a response to some of the Applicant's previous arguments. For completeness, the Applicant comments on the Response to Arguments below. However, the Applicant's current main arguments are contained in the section "Claim Rejections", below.

**2.1.1** The Applicant maintains that Kusaba's system does not provide for a part-automated selection of the channels available for broadcasting a selected video.

As indicated above, "selection" implies a choice between items (namely channels) that are selected, and leaving aside those channels that are not selected. This channel selection thus implies that "available" channels are selected/chosen and non-available channels are not selected and left aside. The available channels are those that are free for transmission during the appropriate time frame. According to claim 1, the system provides an indication of the selected channels. In Kusaba, there is a display or indication only of a reservation situation showing several channels that are occupied and unavailable for broadcast. In Kusaba, there is no selection of the available channels and display of the selected available channels. Kusaba describes only manual selection of channels, and no display of selected available channels. If many channels including "non-available" channels are displayed, like in Kusaba, there is no selection.

**2.1.2** The Applicant maintains that Kusaba's system is described only for distribution/broadcast of selected videos at future times. The Examiner is correct that field 423 on Fig. 4C has no limit on the input time. However, as time is flowing by, it is not too difficult to imagine that such a time input as given by field 423 is impractical for immediate broadcast. Thus, Kusaba's system would have to be modified for immediate broadcast. It could well be that such a modification may be within the skill of the ordinary skilled person. But in the Applicant's opinion, that it is a matter of obviousness, not a matter of novelty.

**2.2** The Applicant concurs with the Examiner's opinion that claims 1 and 8 do not recite any particular types of video. Applicant maintains that the modification of Kusaba's system to deal with live video and immediate broadcast is a matter of obviousness. The Examiner contends that a combination of Kusaba and Murphy will lead to this. However, as argued below, no combination of Kusaba with Murphy can lead to the now-claimed invention as Murphy does not make up for the defects in Kusaba.

**2.2** The Applicant has amended claims 1 and 8 to deal with the objection that the description

does not impart a fully automated channel selection.

**2.4** In the Applicant's opinion the distinction between live and immediate broadcast is not crucial, in particular it should not be an issue for the patentability of claims 1 and 8 as amended.

**2.5** The Applicant maintains that the postulated combination of Kusaba and Murphy is by no means obvious; however, as far as amended claims 1 and 8 go, the Applicant contends, as set out above and as detailed below, that no combination of Kusaba with Murphy can lead to the now-claimed invention as Murphy does not make up for the defects in Kusaba.

**2.6** Claims 1 and 8 have been amended to bring out the differences over Kusaba or Kusaba and Murphy notionally combined. The Applicant agrees that the proper analysis is whether the claimed invention would have been obvious to one of ordinary skill in the art. The Applicant therefore refers to the amended claims and the arguments below.

#### **Claim rejections – 35 USC § 103.**

Former claims 1 - 12 stand rejected under 35 USC § 103 as being unpatentable over US Patent No. 6,510,556 ("Kusaba") in view of US Patent No. 6,564,380 ("Murphy").

The Applicant respectfully traverses this objection in respect of the amended claims 1-5 and 7-12 for the following reasons.

The Applicant concedes that Kusaba describes a similar system to that in Applicant's amended claim 1, apart from the features relating to the selection of channels available for broadcasting and the indication to the user of the selected channels, as further discussed below.

As argued in the previous responses, in Kusaba the user inputs a request that is made up of : the Title to be ordered; a channel to be used for the distribution; and a time to start the distribution. See for example the description col. 4, lines 57-63; col. 5, lines 24-27; and all claims, in particular, claim 1, col. 9, lines 27-30; claim 6, col. 10, lines 11-13; claim 9, col. 10, lines 49-53.

Kusaba's system is described for pre-recorded video and for distribution/broadcast at future times. The possibility that Kusaba's system could be adapted for immediate display has not been described by Kusaba, but the Applicant concedes that it could well be within the capacity of the skilled reader to reach such conclusion.

Kusaba's system does not make a partly automated selection of a channel that is available to broadcast a selected video content immediately or with a delay in correspondence with a user

command, and provide an indication of selected channels available to broadcast the selected video content. Moreover, Kusaba does not provide for an automated selection of channels available for broadcast, in response to a user command to select a channel. Kusaba's indication consisted of selection of the Title and a broadcast time.

Kusaba's system works by the user manually selecting an available channel from several displayed channels including mainly channels that are not available for broadcasting. Kusaba's system involves a "reservation situation" as illustrated in Kusaba's Fig. 4C and Fig. 4D. This provides an indication of the reservation situation for the selected video content. This reservation situation is essentially made up of a display showing when the given channels are unavailable for broadcast, because the channel is already reserved. This reservation situation is cumbersome for the user because the user is left to determine which channels may be available for broadcast.

In Kusaba, it is always the viewer who selects the channel at 422 on Figure 4C or 4F until he/she reaches a channel that is available to broadcast from the given starting time and for the given duration of the video. To achieve this, Kusaba's viewer must always actuate the "designate channel" control 422, presumably after inspecting the reservation display to visually find out which channel may be available for broadcasting.

This has to be contrasted to the present invention where the system automatically selects at least one channel available to broadcast the selected video content immediately or with a delay, whereupon the system provides an indication of the selected channel(s). This automated channel selection either precedes a user command (i.e. the user can select from amongst the available channels automatically selected by the system) or the automated channel selection takes place after the user has made a pre-selection of one or more channels that he would like to use to receive the broadcast. In either case, the system initiates the broadcast of a selected video content on the channel indicated by the system for immediate or delayed broadcast in correspondence with the user command (selected video content and time).

As argued in the previous replies, Kusaba's scheduler does not function in the same manner as Applicant's authorization server to select an available channel and to provide an indication of an available channel on which the video content is broadcast according to the user's request.

On the other hand, the secondary reference Murphy discloses an Internet-based video feed management system. Murphy's system includes access to video, including video-on-demand files, that are mainly downloaded by a customer and delivered through the customer's website and delivery network.

Murphy is concerned mainly with a system for sending live video on the Internet (Col. 1, lines 9-

10).

Murphy is also concerned with a video-on-demand system, but this is limited to Internet distribution: see for example Figure 6: “Video on Demand: Access to a single video on demand file to be downloaded by customer and delivered through customer website and delivery network”.

However, in Figure 10 and col. 17, lines 9-40, Murphy also allows for transmitting video content to a head-end of a cable broadband or digital TV system, for broadcast.

Nevertheless, Murphy remains silent on how the video content and transmission channel is selected. Further he has mentioned an analogy C-SPAN channel (col 17, line 24) where content could be broadcasted as well as streamed over the internet. On considering the C-SPAN channel system, it is clear that the broadcast end user does not select the video content and for an internet user the data would be streamed for the programme he requested. So for this broadcast the user does not provide the indication for video content. Here the local broadcaster provides the indication and would act like local publishing agent as mentioned in Murphy Col 11, line 30. In the instant application, the system provides the mechanism for choosing the content (video feed ) by the end user (Fig 3, Fig 4, Fig 5, Fig 6). This is one major striking difference between US patent 6564380 and the instant application. Generally, the instant invention provides the end user with freedom to choose the end video content and flexibility in this choice which is not supported by Murphy.

The Final Office Action states (on page 11) that it “would have been obvious to an artisan at the time of the invention, to modify Kusaba’s system (server 101) with Murphy’s invention (Master server) in order to allow for proper authorization of the viewers and controlled access content.

Page 6 pf the Final Office Action states that it would have been obvious ... to allow the viewers access to more content while allowing the service providers to expand their plethora of services.

Page 7 of the Final Office Action suggests that “the combination could also be enabled by Murphy’s disclosure to serve live videos, while ensuring proper viewer’s credentials”.

The Applicant reiterates that the skilled person is not guided by Kusaba’s disclosure, which is limited to stored video data, to perceive the usefulness of Murphy’s live video collection in Kusaba’s disclosure. Moreover, Murphy’s disclosure pertains to video-on-demand for Internet distribution; Murphy has not recognized the potential for video-on-demand for live videos by TV transmission. Therefore the skilled person has no guidance or incentive to combine the two disclosures and has no reason for combining the disclosures. If however, the systems were nevertheless combined as postulated in the Office Action to allow for proper authorization of the

viewers and controlled access content, or for the service providers to expand their plethora of services, or to serve live video while ensuring proper viewer's credentials, this would not lead to applicant's invention as claimed, for the following reasons.

Murphy does not cure the defective disclosure of Kusaba as regards the manner of operation of its scheduler and in particular the selection of channels.

It follows that no combination of the two teachings will arrive at the subject matter of instant claims 1 and 8, because Kusaba teaches that the user must select the channel for broadcast without any automated selection of the available channel(s), employing a reservation situation constituted mainly of occupied channels, and Murphy contains no teaching that makes up for this.

To the contrary no combination of the two teachings will lead the skilled person to the instant invention where the system provides for automated selection of the channel that is available to the user after user pre-selection, or for user post-selection by the user from amongst the channels automatically selected as being available for broadcast, and where the broadcast of the selected video takes place immediately or with a delay. Murphy does not teach selection of a channel, let alone the selection of an available channel. In fact Murphy is completely silent about this aspect which is anyway not necessary for Murphy's Internet-based video distribution system.

Consequently, even if the skilled person were to contemplate combining Murphy's video collection into Kusaba's video distribution apparatus, the combination would result in obtaining an apparatus for distributing Murphy's video collection by Kusaba's system. In such a notionally combined system, the channel for broadcast has to be selected solely by the user on the basis of the described reservation situation from amongst unavailable channels. This does not correspond to a system according to the invention wherein the user transmits an order for a video content to be displayed and the system provides automated selection of the channel that is available to the user and where the broadcast takes place, this automated channel selection being complemented by a user pre-selection or a user selection only among pre-selected channels that are available for broadcast.

According to Applicant's amended claim 1, the distribution server is arranged to provide semi-automated selection of one or more channels that are available to broadcast immediately or with a delay in correspondence with a user command that sets a time or times or a range of times for broadcast. Moreover, the distribution server is arranged to provides automated selection of channels available to broadcast that are further selectable by the user or a channel or channels for broadcast is pre-selectable by the user and the distribution server is arranged to provide automated selection amongst the pre-selected channels of those channels that are available for

broadcast.

Such features are not known from Kusaba where channel selection is never even partly automated, but is always purely manual by user actuation, nor is this feature known from Murphy.

Automated and partly automated channel selection in the Applicant's invention is discussed on page 9, lines 29 and page 14, lines 1-13. Selection of the channel can be done automatically by the distribution server 350, based on software controlling the allocation of channels as a function of existing orders and predicted future availability of the channels which fluctuates according to demand. However, the user can participate in channel selection, for example the main authorization server 300 provides the user with an indication of several available channels, and the distribution begins when the user selects one of these channels. Thus, in the latter case, it is the system which automatically selects and provides the indication of several available channel (i.e. channels that are free at the designated starting time and remain free for the duration of the selected video content). Also, in the variation discussed on page 9 lines 25-27, the user makes a pre-selection possibly of several channels, and the distribution server determines which channels are available to broadcast at the given time(s).

Kusaba, however, provides a "Reservation situation" (Figure 4C), leaving it to the user to calculate from a picture of the occupied channels if a particular channel is or is not available to broadcast the selected video content. Murphy is totally silent on this aspect.

Thus, Kusaba provides neither an automated selection of the available channels nor a partly automated channel selection that is assisted by a user command, as required by Applicant's claims 1 and 8 as amended, and this feature cannot be derived from Kusaba nor from Murphy.

According to Applicant's amended claim 1, the distribution server is arranged to provide an in-part automated selection of a channel that is available to broadcast. This is nowhere described in Kusaba or Murphy and cannot be derived from a combination of their teachings.

The Applicant therefore submits that the claimed invention (amended system claim 1) could not be derived in an obvious way by the skilled person over the teachings of Kusaba and Murphy, and requests the Examiner to review this ground of objection in the light of the above arguments and to withdraw this ground of objection.

The above arguments on non-obviousness apply also to claim 2 where the main video server supplies live broadcasts, and stores and supplies recorded videos and video-on-demand.

As regards claim 3, the Applicant has already acknowledged that digital broadcasting apparatus having a broad bandwidth with several hundreds of channels is known; however, this feature is

combined with the inventive features of claim 1 and therefore should be allowable with claim 1. Likewise for claims 4 and 5.

As regards claim 7, the Applicants processing system (320) and authorization server (300) cooperate to operate the main video server (200) in the novel and inventive manner set out in claim 1, so claim 7 should be patentable for the same reasons as claim 1.

The Applicant submits that method claim 8 is novel and inventive for the same reasons as set out for the main system claim 1 and the dependent method claims 9-12 are likewise patentable for the same reasons as given above.

### **Summary**

In view of the above it is believed that the application and all claims are in condition for allowance and a notice to that effect is earnestly solicited

Respectfully submitted,

Moose Eisa AL AMRI

June 7, 2010

By: /Michael O. Sturm/  
Michael O. Sturm  
Reg. No. 26,078

STURM & FIX LLP  
206 Sixth Avenue, Suite 1213  
Des Moines, Iowa 50309-4076  
Telephone: (515) 288-9859  
Telefax: (515) 288-4860  
e-mail: [sturm@hslip.com](mailto:sturm@hslip.com)